



ON - THE - JOB

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Por el Bien de los Suyos (For the Sake of Your Loved Ones)

In construction and manufacturing, Latino workers have a higher injury rate than other workers, according to the U.S. Department of Labor. The Utah Labor Commission, in cooperation with the Center for Educational Programming, has produced a half-hour



educational television program in Spanish (with English subtitles) that reviews workplace safety, workers' rights and responsibilities, and the impact of a workplace injury on a worker's family in the fields of construction and manufacturing. The program is entitled, "*Por el Bien de los Suyos* – For the Sake of Your Loved Ones."

The purpose of the television program is to educate Hispanic workers in Utah, particularly those who primarily speak Spanish, about workplace safety issues. Hispanic make up about 11% of the state's population, but had approximately 15% of Utah's workplace fatalities last year. *Por el Bien de los Suyos* increases awareness for Hispanic workers to realize the dangers of working in construction and manufacturing jobs and also points out their responsibility to ask questions and report any dangerous conditions they might find at their workplace to the Labor Commission.

The educational program, which took about a year to produce, is also a way to inform workers and employers about the Labor Commission and the free services we provide. The program was funded by the Utah Labor Commission's Workplace Safety Program.

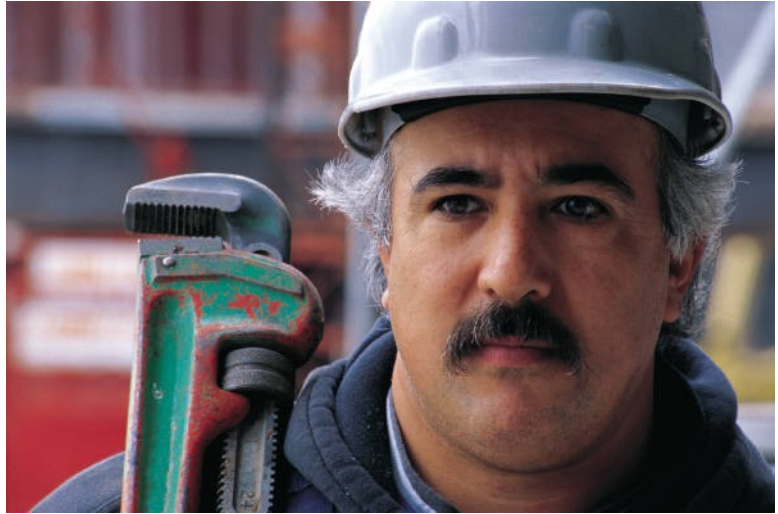
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Free DVD copies of *Por el Bien de los Suyos* were given out at the screening premier held September 29th. In addition, the program also aired several times in October. Free copies of the DVD may still be obtained by employers, local community organizations and individuals in the safety arena. Contact Elena Bensor, Workplace Safety Manager, at (801) 530-6800 or elenabensor@utah.gov. For the general public, *Por el Bien de los Suyos* will soon be available on the Labor Commission's website and can be downloaded for viewing.



Workplace Safety Poster Contest Open to Middle/Jr. High School Students



During the 2008-2009 school year, the Utah Labor Commission is excited to invite middle and junior high school students to participate in a statewide workplace safety poster contest with **substantial prizes for both the winning student and the school**. Any school with students who enter will be awarded **at least \$300**, with the potential to win much more!

Since the workplace impacts all people and families in Utah, the Utah State Legislature appropriated funds to the Labor Commission to inform citizens of the need for workplace safety. As students in the junior high and middle schools participate in the technology/life/careers (TLC) project and are the workers of the future, we believe it is important to begin the prevention process early by stressing safety. This contest has generated great interest in workplace safety and those schools who have participated in the past have found it both rewarding and educational. The workplace safety posters could be done through the art department or integrated into the TLC curriculum and serve as a motivational learning tool.

Contest basics are:

- ❖ All middle and junior high students - private or public - are eligible to enter.
- ❖ Deadline for receipt of all contest entries is March 2, 2009.
- ❖ The winning posters will be reproduced as determined by the Labor Commission.
- ❖ From all submitted entries, there will be approximately 35 posters selected as semi-finalists.
- ❖ The winning entry will receive a cash prize of \$500 for the student, as well as a \$500 cash prize for the classroom.
- ❖ The next three runners-up will each receive a cash prize of \$300, as well as a \$300 cash prize for the classroom.
- ❖ Eight additional entries will be selected as Honorable Mention and will receive a cash prize of \$200, with matching amounts for the classroom.
- ❖ The top twelve winners as outlined above will be featured in the 2010 Workplace Safety Calendar.
- ❖ Non-placing semi-finalists will receive a cash prize of \$50.

FOR MORE INFORMATION, CONTACT ROBYN BARKDULL - rbarkdull@utah.gov

GE Healthcare Receives State Recognition for Exemplary Safety Program

The Utah Occupational Safety and Health Division (UOSH) of the Utah Labor Commission awarded GE Healthcare with re-certification into the Utah OSHA Voluntary Protection Program (VPP). GE Healthcare produces medical imaging equipment and is located in Salt Lake City, Utah. After a week-long onsite audit, a UOSH team made the decision to recommend GE Healthcare for continued participation in the VPP program at the STAR level.

Since entering this Voluntary Protection Program in 2003 at Merit level, then achieving STAR status in 2005, GE has continued to improve its safety and health management system, in turn, providing its 671 employees with a safe and healthful place of employment.

The Voluntary Protection Program was established by federal OSHA in 1982 and adopted by Utah OSHA. It promotes recognition to companies that implement and maintain an effective safety and health system for their employees. In the VPP, management, labor, and UOSH establish cooperative working relationships to work towards the implementation of a comprehensive safety and health management system. Approval into VPP is an official recognition of the outstanding efforts of employers and employees who have achieved exemplary occupational safety and health.

Currently, there are five outstanding Utah employers which have applied to this voluntary program and with their dedication and commitment, they have achieved the level of excellence in workplace safety and health to be

in the VPP program and obtain this national recognition.

“There are approximately only two thousand employers in the entire nation which have achieved VPP status”, stated Commissioner Sherrie Hayashi.. “This achievement is the result



Pete McCabe - CEO of GE Healthcare and Mary Barraco - GE's Health, Safety and Environmental Manager receive award from Labor Commissioner Sherrie Hayashi

of meeting stringent requirements which include an extensive on-site inspection by a team of UOSH personnel and company representatives. The Commission congratulates GE Healthcare on this important achievement.”



Utah Labor Commission
office hours are Monday
through Thursday 7am-6pm.
Some services may be
available after hours or
available on our website:

www.laborcommission.utah.gov

Labor Commission Implements Online Workers' Compensation Proof of Coverage System

By Ron Dressler, Assistant Director, Utah Division of Industrial Accidents

With few exceptions, Utah law requires employers to have workers' compensation (WC) insurance coverage for their employees working in Utah. The Utah Labor Commission's Proof of Coverage (POC) link provides website searchable information on Utah employers' WC insurance coverage from 1986. The POC data is electronically updated daily. Anyone can now verify a Utah employer had or has workers' compensation insurance coverage between 1986 to the present.

first state to implement this system, but soon NCCI saw the need to develop

this use for all NCCI states. With the full cooperation of the Workers Compensation Fund and all other WC insurance carriers, the LC is now able to offer this Proof of Coverage service. Utah became the 21st state to use the system, but probably not the last.



NEED: The Proof of Coverage internet look-up feature is a product of combined resources and support of the Utah Labor Commission, Utah Division of Industrial Accidents, Utah Department of Technology Services, and NCCI, the National Council of Compensation Insurance. NCCI is the largest provider of workplace injury data and statistics in the nation.

Stakeholders (such as medical providers, injured workers and their families, potential employees, insurance carriers, competitor employers, government regulators, etc.) need to know which employers are covered or not covered by workers' compensation. Information technologies used in everyday business practices provide this critical information in an efficient manner. Industrial Accidents staff receives hundreds of calls a week relating to coverage verification. Medical providers need to know who to bill and attorneys need to know who to contact to manage workers' compensation cases for clients. People have a right to know if their employer is covered by WC insurance.

HISTORY: NCCI developed a web-based system which enables anyone to view insurance information on their website by way of this link. Nevada was the

Industrial Accidents staff receives hundreds of calls a week relating to coverage verification....People have a right to know if their employer is covered by WC insurance.

EASY TOOL TO USE: Go to <http://laborcommission.utah.gov/IndustrialAccidents>

[ents](#). A link entitled "Utah's Online POC "Proof of Coverage" is found on the home page of the Division of Industrial Accidents. Click on POC to verify an employer's WC coverage. When you click on the link, another window opens in your browser connecting you to an external website maintained by NCCI.

Please note the written disclaimer on the first page and subsequent pages. The POC data is NOT a legal verification of coverage or lack of coverage. The accuracy of the NCCI data cannot be guaranteed by the Division of Industrial Accidents or the Utah Labor Commission.

You can access the information regarding an employer you wish to verify coverage by typing the employer name or an injury date. The information contained therein relates back to 1986. Information regarding Self-Insured Utah Employers will also be provided. For specific information or questions (and WC coverage information prior to 1986), please contact the WC Policy Section at (801) 530-6800 or toll free at 1-800-530-5090. The POC site requires "Cookies" and "JavaScript" to be enabled to correctly function.

See POC system on page 8...

Sahara, Inc. Wins Utah Labor Commission's 2008 Safety Award

The 2008 Utah Labor Commission Annual Arches Award for Safety and Health Excellence was presented to Sahara, Incorporated as a result of their outstanding workplace safety program.

Sahara, Inc. is a professional organization dedicated to providing superior construction management and general contracting services. The company, established in 1985 by Thomas C. Mabey, has commitment and service as unique as its name.

Since its beginning, Sahara has dedicated itself to not only building quality projects, but also to making lasting contributions to the communities which they serve. Sahara has left its mark on the Utah landscape with such projects as the Miller Motorsports Park in Tooele, Jordan Commons in Sandy, the Energy Solutions Arena (Previously the Delta Center) in downtown Salt Lake City and the Daybreak Corporate Center in South Jordan.



Corbin Holdaway, Project Superintendent, Comm. Sherrie Hayashi, Crystle Kerfoot, Safety Supervisor, and Steve Sentella, Project Superintendent at Award's Ceremony

While being involved in these and numerous other projects, safety remains a core value in the company. Aside from being contractually and legally mandated, the safety of Sahara's associates, its owners, subcontractors, site visitors and anyone associated with the company is of paramount concern.

Sahara has established a written injury and illness prevention program that incorporates all types of work activities on its projects. Sahara's safety program dictates that all phases of work are carefully planned to ensure safe execution. This is accomplished by performing pre-phase meetings with each of the company's subcontractors. At the

meeting, job hazard analysis and safety procedures are reviewed to assure that no gaps exist in safe work practices and performance.

The success of Sahara's safety program has been credited to several factors including: the company's mission and values; Sahara's ability to impart their safety expectations to their

employees and subcontractors; and the uncompromised support of management.

"We commend each one of your team members for such dedication and commitment to safety and health in your establishment," said Sherrie Hayashi, Utah Labor Commissioner at the award's assembly held recently. "Your company continues to work diligently to operate within the guidelines of an exemplary safety and health management system."

The Utah Labor Commission congratulates Sahara Inc. as this year's 2008 Safety Award Recipient.

Appellate Decisions

The Utah Court of Appeals recently issued four decisions—two published; two unpublished—in workers’ compensation cases. These decisions are summarized below, but can be read in full at www.utcourts.gov/courts/appell/.

Utah Auto Auction and American Home Assurance v. Labor Commission and Douglas Davis, (2008 UT App 293, issued July 31, 2008). Davis worked for Utah Auto Auction. After experiencing severe pain while lifting a small computer, he was diagnosed with a herniated disc. American, the employer’s insurance company, denied Davis’s claim for workers’ compensation benefits on the grounds that lifting a small computer was not enough to constitute the “legal cause” of his injury.

Under Utah law, the determination of whether an employment-related activity or exertion is the “legal cause” of injury depends on whether the worker has any pre-existing non-work condition that contributes to the injury. If there are no pre-existing contributing conditions, then **any** employment-related exertion or activity is sufficient to establish legal causation. On the other hand, a worker who does have a pre-existing contributing condition must show that the employment-related exertion was more strenuous than the common activities of modern non-employment life. In Davis’s case, the Labor Commission concluded that, because American did not prove that Davis suffered from any pre-existing condition that contributed to his herniated disc, Davis’s exertion in lifting the small computer was enough to constitute the legal cause of his injury.

On appeal to the Utah Court of Appeals, American argued, among other things, that the Commission erred in concluding that Davis did not have any pre-existing back problems that contributed to his work injury. The Court rejected American’s argument, pointing out that it was American’s burden to prove that: 1) Davis had a pre-existing condition; and 2) the pre-existing condition contributed to Davis’s herniated disc. The Court agreed with the

Commission that American had not submitted enough evidence to meet that burden of proof.

Frito-Lay and Transcontinental Insurance v. Labor Commission and Amy Clausing, (2008 UT App. 341; issued August 28 2008).

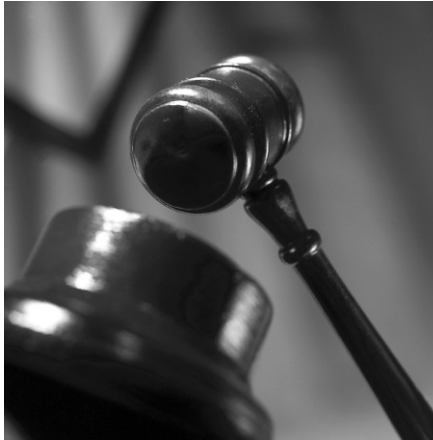
Clausing was injured in the course of her employment by Frito-Lay. While recovering from her injuries she was able to work some, but not all, of the time. One of the Labor Commission’s Administrative Law Judges awarded temporary disability compensation to Clausing for her entire recovery period, with no

deduction for the time she had worked. Consequently, the ALJ’s order directed Transcontinental, Frito-Lay’s insurance company, to pay more disability compensation to Clausing than she was actually entitled to receive.

Although the Utah Administrative Procedures Act and the Utah Workers’ Compensation Act allow a party dissatisfied with an ALJ’s decision 30 days in which to ask the Labor Commission to correct the decision, Transamerica did not request such a review. However, when Clausing attempted to collect the disability compensation that had been awarded by the ALJ’s decision, Transcontinental asked the ALJ to correct the amount of the award pursuant to provisions of the Utah Rules of Civil Procedure—the procedural rules that are generally applied in Utah’s District Courts. The ALJ denied Transcontinental’s request, and Transcontinental appealed that denial to the Labor Commission’s Appeals Board.

The Appeals Board also denied Transcontinental’s request on the grounds that the Rules of Civil Procedure do not apply in workers’ compensation proceedings before the Labor Commission. Transcontinental then appealed the Board’s decision to the Utah Court

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Appellate Decisions continued from page 6

of Appeals. The Court's majority decision reversed the Board and held that Transcontinental was entitled to use the Rules of Civil Procedure to obtain relief from the ALJ's award of excessive compensation to Clausen. However, a dissenting opinion argued that the decision of the Commission's Appeals Board had been correct in concluding that the Rules of Civil Procedure do not apply to proceedings before the Commission. *Note: The Labor Commission has asked the Utah Supreme Court to review the Court of Appeals' decision in this matter.*

In *Revene v. Labor Commission, Nationwide Insurance Co. and Employer's Insurance of*

Wasau, 2008 UT App 276, issued July 17, 2008, (unpublished memorandum decision) the Utah Court of Appeals declined to consider Revene's challenge to the Labor Commission's decision because Revene's brief to the Court was inadequate. In a second unpublished memorandum decision, **Lori Leavitt v. Labor Commission, et al., 2008 UT App. 349; issued October 2, 2008,** the Court of Appeals summarily upheld the Labor Commission's determination that: 1) Leavitt had failed to notify her employer of her alleged work injury within 180 days, as required by the Utah Workers' Compensation Act; and 2) Leavitt's work-related exertions were not the legal cause of her injuries.

The Rules Corner

Pursuant to authority granted by the Utah Legislature, the Commission has recently adopted or is considering the following substantive rules. If you have questions or concerns about any of these rules, please call the Labor Commission at 801-530-6953.



R602-4 Adjudication	Procedures for Termination of TTD. Implements Sub. H.B. 384, effective July 1, 2008, which requires the Commission to accept and adjudicate employer/insurance company requests to terminate or reduce temporary disability compensation payments in cases of alleged employee misconduct.	Effective July 1, 2008 as an emergency rule; the Commission is now engaged in regular rule-making to make the rule permanent.
R602-2 Adjudication	Workers' Comp/Occupational Disease Claims. Several clarifying amendments regarding the adjudication process. Relocates other rule provisions; transfers authority to approve medical exams paid by UEF. (See R612-2-9.F, <i>Industrial Accidents</i> , below.)	Published in <i>Utah Bulletin</i> on November 1; can become final December 8.
R602-5 Adjudication	"Cooperation" and "Diligent Pursuit" for purposes of permanent total disability. Establishes procedures for expedited adjudication of disputes regarding cooperation and diligence with respect to reemployment and rehabilitation under the Workers' Compensation Act's permanent total disability provisions.	Published in <i>Utah Bulletin</i> on November 1; can become final December 8.
R602-6 Adjudication	Approval of Workers' Compensation Settlements. Moves provisions of existing rule into a separate rule.	Published in <i>Utah Bulletin</i> on November 1; can become final December 8.
R612-2-9.F Industrial Accidents	Authorization for medical exam. Transfers from Adjudication to Industrial Accidents the responsibility to authorize UEF payment for medical evaluations of indigent injured workers.	Published in <i>Utah Bulletin</i> November 1; can become effective December 8.
R612-4-2 Industrial Accidents	Premium Rates. Maintains assessment to fund Uninsured Employers Fund at .25%. Reduces assessment to fund Employers Reinsurance Fund from 7.25% (2008) to 5% (2009). Reduction will reduce employers' workers' compensation costs by \$10,000,000.	Discussed in public meeting and by Workers Comp. Advisory Council; published in <i>Utah Bulletin</i> November 1.

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Workers' Compensation POC Online System

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SUMMARY: The POC insurance coverage look-up system developed by NCCI will enable all users to obtain information quicker and more conveniently.

If you suspect an employer is wrongfully operating without WC insurance, please contact the Utah Labor Commission, Industrial Accidents Division's WC Policy Section at (801) 530-6099.

For additional information about online POC, please contact Ron Dressler at (801) 530-6841



Request Form

- ☐ Please delete my name from your mailing list.
- ☐ Please add my name to your mailing list. I would like to receive your quarterly newsletter.
- ☐ Please correct my name/address on your mailing list. I am currently receiving your quarterly newsletter.
- ☐ Please send the newsletter by email

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